

FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

FEB 15 2013

SEAN F. McAVOY, CLERK
DEPUTY
RICHLAND, WASHINGTON

UNITED STATES OF AMERICA

v.

RICHARD ALLAN FLAIZ

CR-12-6043-FVS-2

AGREEMENT FOR PRE-TRIAL DIVERSION

It is alleged by a Indictment returned by the Grand Jury on August 14, 2012, in Cause Number CR-12-6043-FVS-1 that RICHARD ALLAN FLAIZ committed the following offenses against the United States in the Eastern District of Washington:

Count 1: Beginning at a date uncertain, but sometime in November, 2011, and continuing through on or about May 2012, within the Eastern District of Washington and elsewhere, COLLEEN ANNETTE PATRIDGE-STAUDINGER and DR. RICHARD ALLAN FLAIZ, M.D., and others known and unknown to the grand jury, did knowingly and willfully conspire, combine, confederate and agree to commit an offense against the United States, to wit: to dispense the prescription drugs Dysport and Xeomin, without a valid prescription, an act which resulted in the misbranding of those drugs while held for sale, after the shipment of those drugs in interstate commerce, with intent to defraud or mislead, in violation of Title 21, United States Code, Sections 353(b)(1), 331(k) and 333(a)(2) and Title 18, United States Code, Section 371.

Count 2: On or about November 11, 2011, within the Eastern District of Washington and elsewhere, COLLEEN ANNETTE PATRIDGE-STAUDINGER and DR. RICHARD ALLAN FLAIZ, M.D., dispensed and caused the dispensing of a prescription drug, to wit: Xeomin, to consumer K. D. in Richland, Washington, without a valid prescription by a licensed physician, acts which resulted in the drug becoming misbranded while held for sale after its shipment in interstate commerce, and did aid and abet the same, all in violation of Title 21, United States Code, Sections 353(b)(1) and 331(k), and Title 18, United States Code, Section 2.

Count 3: On or about November 11, 2011, within the Eastern District of Washington and elsewhere, COLLEEN ANNETTE PATRIDGE-STAUDINGER and DR. RICHARD ALLAN FLAIZ, M.D., dispensed and caused the dispensing of a prescription drug, to wit: Xeomin, to consumer C. S. in Richland, Washington, without a valid prescription by a licensed physician, acts which resulted in the drug becoming misbranded while held for sale after its shipment in interstate commerce, and did aid and abet the same, all in violation of Title 21, United States Code, Sections 353(b)(1) and

331(k), and Title 18, United States Code, Section 2.

Count 4: On or about March 4, 2012, within the Eastern District of Washington and elsewhere, COLLEEN ANNETTE PATRIDGE-STAUDINGER and DR. RICHARD ALLAN FLAIZ, M.D., dispensed and caused the dispensing of a prescription drug, to wit: Xeomin, to consumer F. A. in Kennewick, Washington, without a valid prescription by a licensed physician, acts which resulted in the drug becoming misbranded while held for sale after its shipment in interstate commerce, and did aid and abet the same, all in violation of Title 21, United States Code, Sections 353(b)(1) and 331(k), and Title 18, United States Code, Section 2.

Count 5: On or about May 7, 2012, within the Eastern District of Washington and elsewhere, COLLEEN ANNETTE PATRIDGE-STAUDINGER and DR. RICHARD ALLAN FLAIZ, M.D., dispensed and caused the dispensing of a prescription drug, to wit: Xeomin, to consumer M.T. in Kennewick, Washington, without a valid prescription by a licensed physician, acts which resulted in the drug becoming misbranded while held for sale after its shipment in interstate commerce, and did aid and abet the same, all in violation of Title 21, United States Code, Sections 353(b)(1) and 331(k), and Title 18, United States Code, Section 2.

Upon accepting responsibility for your behavior and by your signature on this Agreement, it appearing, after an investigation of the offenses and your background, that the interests of the United States and your own interest and the interests of justice will be served by the following procedure, therefore:

On the authority of the Attorney General of the United States, by Michael C. Ormsby, United States Attorney for the Eastern District of Washington, prosecution in this District for this offense shall be deferred for a period of 12 months from the date of the filing of this Agreement, provided you abide by the following conditions and the requirements of the Pre-Trial Diversion program set out below.

Should you violate any conditions of this supervision, the United States Attorney or his designee may revoke or modify any conditions of this Pre-Trial Diversion program or change the period of supervision for an additional period which shall in no case exceed 24 months from the original termination date of the diversion agreement. The United States Attorney may release you from supervision at any time. The United States Attorney may at any time within the period of your supervision reinstitute prosecution for this offense should you violate any conditions of this supervision and will furnish you with notice specifying the conditions of your program which you have violated. The

decisions of the U.S. Attorney are made at his sole discretion and are not subject to challenge.

If, upon successful completion of the program and your period of supervision, a Pre-Trial Diversion report is received to the effect that you have complied with all the rules, regulations and conditions above mentioned, the pending indictment will be dismissed.

CONDITIONS OF PRE-TRIAL DIVERSION


1. You shall not violate any law (federal, state and local). You shall immediately contact your Pre-Trial Diversion supervisor if arrested and/or questioned by any law enforcement officer for any reason including, but not limited to, traffic infractions. A traffic infraction, other than driving under the influence, will not be deemed to be a violation of this agreement.
2. You shall be employed regularly at a lawful occupation or otherwise comply with the terms of the special program described below. In the absence of a special program, when out of work, you shall notify your diversion supervisor at once. You shall consult him/her prior to job changes. In the event you are self-employed, you shall permit your diversion supervisor and/or his /her designee to review all books, accounts, receipts, and/or tax records kept or maintained in connection with said self-employment.
3. You shall continue to live at your current residence. If you desire to move to another residence outside the District of Oregon, you shall obtain permission from your diversion supervisor so that the appropriate transfer of program responsibility can be made prior to your relocation.
4. You shall report to your diversion supervisor as directed and keep him/her informed of your whereabouts. Any failure to abide by the meeting or reporting requirements established by your diversion supervisor will be deemed to be an irrevocable violation of the instant Agreement.
5. You shall obtain and maintain, if legally possible, a valid driver's license and the appropriate vehicle insurance.

6. You shall not illegally possess, control and/or consume any controlled substance, which includes marijuana, or items commonly used for the consumption of such substances (drug paraphernalia), or be in any place where such illegal substances are located, controlled and/or consumed. You may continue to legally possess and control and/or consume a legally proscribed controlled substance, and may continue to legally possess and control any controlled substances for which you have authority to possess and control under the terms of any professional license, as such authority is determined by the issuing licensing agency.

7. You shall strive to achieve the desired goals of the program.

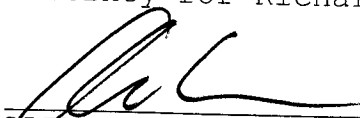
I, **RICHARD ALLAN FLAIZ**, assert and certify that I am aware of the fact that the Sixth Amendment to the Constitution of the United States provides that in all criminal prosecutions the accused shall enjoy the right to a speedy and public trial. I also am aware that Rule 48(b) of the Federal Rules of Criminal Procedure provides that the Court may dismiss an indictment, information, or complaint for unnecessary delay in presenting a charge to the Grand Jury, filing an information, or in bringing a defendant to trial. I hereby request that the United States Attorney for the Eastern District of Washington defer any prosecution of me for Conspiracy To Misbrand Prescription Drugs, in violation of Title 21, United States Code, Sections 353(b)(1), 331(k) and 333(a)(2) and Title 18, United States Code, Section 371, and for Misbranding of Prescription Drugs, in violation of Title 21, United States Code, Sections 353(b)(1) and 331(k), and Title 18, United States Code, Section 2, for a period of 12 months, and I agree and consent that any delay from the date of this Agreement to the date of the initiation of the prosecution, as provided for in the terms expressed herein, shall be deemed to be a necessary delay at my request and I waive any defense to such prosecution on the ground that such delay operated to deny my rights under Rule 48(b) of the Federal Rules of Criminal Procedure and the Sixth Amendment to the Constitution of the United States to a speedy trial or to bar the prosecution by reason of the running of the statute of limitations for the effective period of this Diversion Agreement.

I hereby state that the above has been read by me and explained to me by my attorney. I understand the conditions of my Pre-Trial Diversion and agree that I will comply with them.

 2/15/13
RICHARD ALLAN FLAIZ
DATE


WILLIAM DAVID MCCOOL
Attorney for Richard Allan Flaiz

2/15/13
DATE

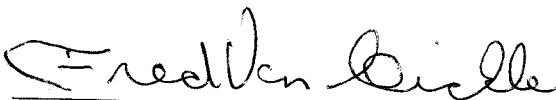

ALEXANDER C. EKSTROM
Assistant United States Attorney

2/13/2013
DATE


U.S. PROBATION OFFICER

2/15/2013
DATE

APPROVED without passing judgment on the merits or wisdom of this diversion.


FRED VAN SICKLE
Chief United States District Court Judge

February 15, 2013
DATE